



# Excise Tax Advisory

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Excise Tax Advisories (ETA) are interpretive statements issued by the Department of Revenue under authority of RCW 34.05.230. ETAs explain the Department's policy regarding how tax law applies to a specific issue or specific set of facts. They are advisory for taxpayers; however, the Department is bound by these advisories until superseded by Court action, Legislative action, rule adoption, or an amendment to or cancellation of the ETA.

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NUMBER: 269.04.194

CONVERSION DATE: July 1, 1998

**This ETA is cancelled effective January 30, 2006.**

OUT-OF-STATE ENGINEERING FIRM PERFORMING SERVICES  
IN THIS STATE WHICH ARE INCIDENTAL TO THOSE PERFORMED  
BY ITS OUT-OF-STATE OFFICE

Issued September 23, 1966

Where an out-of-state engineering firm with no local business situs in Washington performs local services which are incidental to the services performed by its out-of-state office, are such services subject to Washington State's Business Tax?

The taxpayer, an out-of-state engineering firm, was licensed to do business in Washington, but it had no office in the state. Its main office was in Portland, Oregon, and the normal business procedure was to visit a client at his office, discuss and negotiate for its services, and then perform all the engineering design and computations in its Portland office. The drawings were prepared in that office and submitted to the client either through the mail, by visitation at his office, or by the clients calling at its offices. When site measurements were required, the taxpayer would send one or more men from its office into Washington to perform this work. Representatives of the taxpayer were also sent to provide inspection services during the construction and fabrication of materials at the client's construction site. This would take several weeks on a big job. The taxpayer contended that professional services performed by persons domiciled out of state were exempt from Washington State's excise taxes.

Rule 194 states

"When the business involves a transaction taxable under the classification of 'Service and Other Business Activities,' the tax does not apply upon any part of the gross income received for

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***ETBS have been made Excise Tax Advisories, and have retained their old number. Advisories with a 2 (plus three digits) are new advisories, ETBs that have been revised and readopted after review under the Department's regulatory improvement program, or advisories that have been revised and/or readopted.***

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services incidentally rendered to persons in this state by a person who does not maintain a place of business in this state and who is not domiciled herein. . ."

The Tax Commission noted that Rule 194 states the principle that a person engaged in the business of rendering services is taxable according to the business situs from which or at which such services are rendered or performed. Services which are "incidentally rendered" are those of a transitory nature which are performed locally by a person not domiciled here as a part of the business conducted from an out-of-state situs. Therefore, the Commission ruled that the taxpayer's described engineering services were incidental to the activities of the out-of-state office and, in the absence of local business situs, were not subject to the excise taxing jurisdiction of Washington. (Letter.)

